

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 31, 2018

Sheila T. Reiff
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2017AP1075

Cir. Ct. No. 2016SC921

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

GENE GANTA,

PLAINTIFF-APPELLANT,

V.

DARRELL AUGUSTINE AND JENNY AUGUSTINE,

DEFENDANTS-RESPONDENTS.

APPEAL from an order of the circuit court for Columbia County:
W. ANDREW VOIGT, Judge. *Affirmed.*

¶1 KLOPPENBURG, J.¹ Gene Ganta, pro se, appeals the circuit court's order dismissing his small claims action against Darrell and Jenny Augustine. Ganta fails on appeal to develop a legal argument that the circuit court

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

erred in dismissing the action, his undeveloped argument is contrary to the law and facts in the record, and he fails to address other independent grounds on which the circuit court dismissed the action. Accordingly, I affirm.

BACKGROUND

¶2 Gene Ganta filed a small claims summons and complaint against Darrell and Jenny Augustine asserting a “claim for money” totaling \$9,990.00, alleging that the Augustines rented property from Ganta, damaged that property, and failed to pay for rent and utilities. The Augustines answered the complaint, denying that they ever rented property from Ganta. The Augustines alleged that they rented the property from Ellen Mobry, who owned the property during the Augustines’ tenancy, and that Ganta was attempting to relitigate an issue that was tried to conclusion in a prior case.

¶3 After a hearing, the Columbia County Court Commissioner dismissed Ganta’s complaint because the “matter has been litigated ... previously [in] case 14AP 2350 and 08 CV 686.” Ganta then filed a demand for a de novo trial in the circuit court.

¶4 The Augustines moved for summary judgment, and attached the following documents to support their motion: a copy of the complaint Ganta filed against the Augustines in the prior case, which the Augustines asserted contained substantially the same allegations as those in the instant case; and a copy of the circuit court’s order of dismissal and final judgment in the prior case, which dismissed Ganta’s claims against the Augustines on the merits and found no damages attributable to the Augustines. The Augustines argued that Ganta’s claim was barred under the doctrine of issue preclusion.

¶5 The circuit court granted the Augustines’ motion for summary judgment, dismissing Ganta’s claims on the merits and with prejudice, “based on the doctrines of Issue Preclusion, the Statutes of Limitations, and the Rule of the Case Doctrine based on the ruling of the Court of Appeals in circuit Court Case 08 CV 686.” Ganta appeals.

DISCUSSION

¶6 Ganta’s briefing on appeal is highly disjointed. More important, Ganta fails to present a single developed legal argument, that is, an argument supported by citations to the record and legal authority that identifies any specific error by the circuit court. Even granting Ganta leeway based on his pro se status, significant elements of a legal argument are missing from each assertion he makes. I affirm on the ground that Ganta fails to develop a legal argument. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (court of appeals need not consider inadequately developed arguments).

¶7 Were I to consider Ganta’s undeveloped argument I would find it unsupported by law or facts in the record. As far as I can discern, Ganta argues that the circuit court erred in dismissing his claims on grounds of issue preclusion because the Augustines were not parties to either the prior case or to the land contract at issue in the prior case. Contrary to Ganta’s assertions, the circuit court in the prior case Ganta references specifically held that “Darrell and Jenny Augustine are proper parties to this action” and that Ganta has “failed to prove any claim against defendants Darrell and Jenny Augustine.” Accordingly, the circuit court, here, properly dismissed Ganta’s claim on the ground of issue preclusion. *See Flooring Brokers, Inc. v. Florstar Sales, Inc.*, 2010 WI App 40, ¶6, 324 Wis. 2d 196, 781 N.W.2d 248 (“Issue preclusion prevents ‘relitigation in a

subsequent action of an issue of law or fact that has been actually litigated and decided in a prior action and reduced to judgment.” (quoted source omitted)).

¶8 Finally, Ganta fails to address the other independent grounds on which the circuit court dismissed his claim against the Augustines, namely, that his claim was barred by the statute of limitations and the “[r]ule of the [c]ase [d]octrine.” The failure to challenge a portion of the circuit court’s ruling is treated as a concession that the court’s ruling was correct. *See West Capitol, Inc. v. Village of Sister Bay*, 2014 WI App 52, ¶49, 354 Wis. 2d 130, 848 N.W.2d 875 (explaining that “[f]ailure to address the grounds on which the circuit court ruled constitutes a concession of the ruling’s validity”).

CONCLUSION

¶9 For the foregoing reasons, I affirm the circuit court’s order.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

